IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX APPLICATION No 1 of 2000

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR DM DHARMADHIKARI
and
Hon'ble MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

1 to 5 No

COMMISSIONER OF INCOME TAX

Versus

PATEL GLASS CORPORATION

Appearance:

MR MANISH R BHATT for Petitioner

NOTICE SERVED for Respondent No. 1

CORAM : CHIEF JUSTICE MR DM DHARMADHIKARI
and
MR.JUSTICE A.R.DAVE

Date of decision: 13/09/2000

ORAL JUDGEMENT

On this application rule was issued. The respondent-assessee has been served. No one appears on its behalf.

After hearing the learned counsel for the department and examining the provisions of Sec. 271B read with sections 271 and 275 of the Income-tax Act, the following substantial question of law arises from the order of the Tribunal :

"Whether the Appellate Tribunal was right in law in cancelling the penalty imposed by interpreting sec. 271B of the Act with the aid of sections 271 and 275 of the said Act and holding that penalty under sec. 271B can be imposed only by initiating proceedings in the course of assessment?"

The application is allowed and the Tribunal is directed to prepare a Statement of Case and refer the above question for decision of this Court.

Rule is made absolute.

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(D.M. Dharmadhikari, C.J.)

(A.R. Dave, J.)

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